

REMARKS

The Applicant requests that the above Amendment be entered and the application examined as amended, and in view of the remarks below.

By this Amendment, no amendments were made to the pending claims.

Claims 1-70 remain pending in this application.

1. Response to Obvious Rejection based upon Schmidt and Barral

In paragraphs 3 and 4 on pages 2-4 of the Office Action, the Patent Office rejected claims 36-43, 51, 57, 58, and 62-70 under 35 U.S.C. 103(a) as obvious in view of U.S. Patent 6,585,409 of Schmidt, et al. (herein "Schmidt") and U.S. Patent 5,352,039 of Barral, et al. (herein "Barral"). However, the Applicant respectfully submits that these rejections are inappropriate and requests that they be reconsidered and withdrawn.

With respect to the rejection of independent claims 36 and 51, the Applicant respectfully submits that when Schmidt and Barral are combined the claimed inventions do not ensue. As noted by the Patent Office, Schmidt discloses an IR sensor that is adapted to produce light patterns on the measured surface as shown in Figures 2A-2G. However, the Patent Office recognizes that Schmidt is silent on the claimed "said marking providing a visible indication based upon a reading of the IR detector." The Patent Office then relies on Barral to provide this teaching. However, close examination of Barral reveals that Barral does not provide the teachings missing from Schmidt.

The Applicant believes that it will be helpful to briefly review the specific limitations of the inventions recited in claims 36 and 51. In the radiometer recited in claim 36 and the method recited in claim 51, a visible light beam illuminates or "marks" the surface under examination. According to aspects of the invention, this visible light marking of the surface under examination provides a visible indication of the reading of the IR detectors, for example, a rotational indication, a frequency indication, a flashing, or a flickering. As noted by the Patent Office

Schmidt does not provide this teaching. The Applicant respectfully submits that Barral is also silent in this regard.

In support of the rejection, the Patent Office cites the passages at 4:25-51 of Barral. However, close examination of this passage reveals that Barral does not disclose the aspect of the invention missing from Schmidt. As described at 4:20-24 and illustrated in Figure 1 of Barral,

The result of this difference [in temperature] is transmitted to the signaling means 34, which in the example represented in FIG. 1 comprises the loudspeaker 38 producing a corresponding specified sound level and/or modulation and a corresponding specified number of diodes 37 being lit up. [Emphasis added.]

As clearly shown in Figure 1, the diodes 37 are mounted in the housing and simply illuminate in the housing in response to the detected difference. Diodes 37 do not in any way illuminate the measured surface 30, shown in Figure 2. Moreover, neither the diodes 37 nor any other source of illumination in Barral mark the surface with a visible indication of the reading of the IR detector.

Should the Patent Office be tempted to cite the passage at 4:57-65 of Barral, the Applicant submits that the aspect of the invention of Barral described in this passage is also unrelated to the claimed invention. This passage refers to “marker diodes” that can produce “different traces...on the surface.” However, the Applicant submits that these marker diodes can only be the diodes 18 and 19 that, as shown in Figure 3, illuminate the surface being measured. But, again, these diodes do not mark the surface 30 based upon the reading of detector 14 (Figure 1). As described in 4:57-65, the “different traces” are produced by “different positions of adjustment” of the orientation of diodes 18 and 19. This variation in orientation is clearly illustrated in Figures 3 and 4 of Barral and, as described in 2:62-3:5, is effected by rotating supports 20 and 21. Again, Barral does not disclose the teachings missing from Schmidt.

Based upon the above observations, the Applicant respectfully requests that the rejections of claims 36 and 51 as obvious in view of Schmidt and Barral be reconsidered and withdrawn.

With respect to the rejections of dependent claims 37-43, 57, 58, and 62-70, the

Applicant submits that these claims are not obvious in view of Schmidt and Barral for the same reasons that claims 36 and 51, from which they depend, are not obvious. The Applicant respectfully requests that these rejections also be reconsidered and withdrawn.

2. Allowable Subject Matter

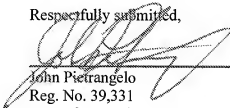
In paragraphs 5-8 on page 5 of the Office Action, the Patent Office deemed claims 1-35, 44-50, 52-56, 59-61 allowable. The Applicant acknowledges with appreciation the recognition of the allowability of these claims, but, as described above, the Applicant believes that the Applicant is entitled to the additional protection discussed above.

3. Conclusion

The Applicant believes that the above Remarks overcome the rejections of the subject Office Action and places the application in condition for allowance. An early and favorable action on the merits of the application is requested.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Applicant's undersigned Agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,



John Pietrangelo
Reg. No. 39,331
Agent for Applicant

Dated: February 26, 2008

HESLIN ROTHENBERG FARLEY & MESITI P.C.

5 Columbia Circle
Albany, New York 12203
Tel: 518-452-5600
Fax: 518-452-5579
E-mail: jp@hrfmlaw.com